

# The Orissa



# Gazette

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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 11th June 2007

No. 7620—II/1 (B)-83/2001-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 20th February 2007 in I. D. Case No. 57/2001 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of Text Book Production and Marketing, Bhubaneswar and its workman Shri Ramakanta Panigrahi was referred for adjudication is hereby published as in the Schedule below:

### SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 57 OF 2001

Dated the 20th February 2007

#### Present:

Shri S. K. Mohapatra O. S. J. S. (Jr. Branch),  
Presiding Officer, Labour Court,  
Bhubaneswar.

#### Between:

The Management of Director,  
Text Book Production and Marketing,  
Bhubaneswar. .. First Party—Management

Its Workman .. Second Party—Workman  
Shri Ramakanta Panigrahi.

#### Appearance:

None .. For First Party—Management

Shri R. K. Panigrahi .. Second Party—Workman himself

### AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the management of Director, Text Book Production and Marketing, Bhubaneswar and its workman Shri Ramakanta Panigrahi under Notification No. 10909-L. E., dated the 16th August 2000 vide memo No. 16158 (4)-L. E., dated the 16th November 2001 for adjudication by this Court.

2. The terms of reference by the State Government is as follows :—

“Whether refusal of employment to Shri Ramakanta Panigrahi, Casual workman by the management of Director, Text Book Production and Marketing, Bhubaneswar is legal and/or justified? If not, what relief Shri Panigrahi is entitled?”

3. Shorn of all unnecessary details, the case of the workman in brief is as follows:—

The workman had been appointed as D. L. R. by the management from the 1st July 1998 to the 11th November 1999. The workman had been allotted duty first in the Audit Section and subsequently he was transferred to the Stores Section. The service of the workman was terminated by the management by way of refusal of employment with effect from the 12th November 1999. Although the workman had worked for more than 240 days during the period of 12 calendar months prior to immediately preceding 12th November 1999, the management did not follow the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Industrial Disputes Act) and thereby violated the principles of natural justice. The management did not prepare any gradation list or seniority list for its D. L. R./N. M. R. employees. The Management is engaged in Printing and Publication of Text Books and for that reason it engage the employees on D. L. Rs./N. M. Rs. throughout the year on payment of minimum wages instead of making any regular employment for the purpose. Many employees who were juniors to the present workman are continuing to work under the Management even though the service of the workman was terminated by the Management by way of refusal of employment. After termination of service the workman is unemployed and has not engaged himself in any gainful employment as yet and on these averments, the workman has prayed for his reinstatement in service with full back wages.

4. The management has been set *ex parte* vide Order, dated the 10th August 2004.

5. The workman has examined himself as W. W. 1 and has supported the averments he made in his statement of claim. In his evidence W. W. 1 has deposed that he was working under the management from the 1st July 1998 till the 11th November 1999 and that on the 12th November 1999 he was refused employment. According to W. W. 1 there was on notice pay or retrenchment compensation to him in violation of the provisions under Section 25-F of the I. D. Act. The workman W. W. 1 has proved Ext. 1 series which are all pay slips for the period from July, 1998 to May, 1999. On verification of the documents Exts. 1 series and Ext. 2 and 2/a, it is seen that from November, 1998 till the 12th November 1999 the workman has proved pay slips for the months up to July, 1999 and the days of work done by the workman W. W. 1 between the period November, 1998 to July, 1999 comes to 180 days. The workman has not proved any pay slip beyond the period of July, 1999. It is the bounden duty of the workman to prove that he was in continuous service under the management for 240 days in 12 calendar months preceding the date of his termination from service to constitute continuous service as defined under Section 25-B of the I. D. Act. Unless and until it is proved that the workman was in continuous service as defined under Section 25-B of the I. D. Act, the provisions under Section 25-F of the I. D. Act, can not be attracted. Thus due to lack of evidence on record that the workman was in continuous service for the requisite period, it cannot be held that the termination of the services of the workman was illegal or unjustified and therefore, no order can be passed for reinstatement of the workman in service or any consequential benefits and therefore, the reference is answered accordingly.

Dictated and corrected by me.

S. K. MOHAPATRA

20-2-2007

Presiding Officer,  
Labour Court  
Bhubaneswar

S. K. MOHAPATRA

20-2-2007

Presiding Officer,  
Labour Court  
Bhubaneswar

By order of the Governor

N. C. RAY

Under-Secretary to Government